



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

**NOTICE OF POTENTIAL LIABILITY**  
**DEMAND FOR PAYMENT**  
**URGENT LEGAL MATTER**  
**PROMPT REPLY NECESSARY**  
**SENT VIA ELECTRONIC MAIL**

Mr. Michael Neely  
Manager of General Services  
Yazoo Valley Electric Power Association  
P O. Box 8  
Yazoo City, Mississippi 39194  
mneely@yazoovalley.com

Re: Notice of Potential Liability and Demand for Payment  
F. J. Doyle Salvage Superfund Site  
Leonard, Fannin County, Texas, SSID # 061D

Dear Sir/Madam:

Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA, commonly known as the federal "Superfund" law), the United States Environmental Protection Agency (EPA) has the authority to respond to a release or threat of a release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the F.J. Doyle Superfund Site in Leonard, Fannin County, Texas (Site). EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available, EPA has determined that Yazoo Valley Electric Power Association (Yazoo Valley Electric) may be a potentially responsible party (PRP) under CERCLA for cleanup of the Site or for costs EPA has incurred in responding to the contamination on the Site.

**Explanation of Potential Liability**

Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), PRPs may be held liable for all costs incurred by the EPA (including interest) in responding to any release or threatened release of hazardous substances at the Site. PRPs include current and former owners and operators of the Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

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Based on the information collected, the EPA has determined that Yazoo Valley Electric may be liable under Section 107(a) of CERCLA with respect to the Site as a generator who arranged for the disposal, treatment or transportation of hazardous substances at the Site. Specifically, the EPA has reason to believe that Yazoo Valley Electric arranged for the disposal, treatment, or transportation of electrical transformers containing polychlorinated biphenyls (PCBs) to the Site. Enclosure 1 is a copy of the evidence on Yazoo Valley Electric's involvement with the Site.

### **Background**

To date, the EPA has taken response actions at the Site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site:

- In May 2015, the Texas Commission on Environmental Quality referred the Site to the EPA.
- In May 2018, the EPA investigated the surface and sub-surface soils to determine the lateral and vertical extent of contamination at the Site and surrounding areas.
- The EPA conducted a removal action at the Site beginning on November 5, 2018, removing and disposing of PCB-contaminated soils and building elements.

### **Demand for Payment**

In accordance with Section 104 of CERCLA, 42 U.S.C. § 9604, the EPA has already taken certain response actions, which are listed above, and incurred certain costs in response to conditions at the Site. The EPA is seeking to recover from PRPs the response costs and all the interest expended at the Site and authorized to be recovered under Section 107(a) of CERCLA. The total response costs identified through August 31, 2020, for the Site are \$3,833,694.38. Under Section 107(a) of CERCLA, EPA hereby makes a demand for payment from you and other PRPs for the above amount plus all interest authorized to be recovered under Section 107(a) of CERCLA. A summary of these costs reported through August 31, 2020, is enclosed as Enclosure 2.

The EPA would like to encourage communication between you, other PRPs and the EPA regarding the Site and this demand for payment. To assist you in your efforts to communicate, please find in Enclosure 3 a list of names and addresses of PRPs to whom this letter is being sent.

### **Ability to Pay Settlement**

While this letter demands that Yazoo Valley Electric reimburse the EPA for all funds spent at the Site, the EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within this category, please contact Mr. David Eppler by phone at 214-665-6529 or via email at [eppler.david@epa.gov](mailto:eppler.david@epa.gov) for information on ability to pay settlements. In response, you will receive a package of information about such settlements and a form to fill out with information about your

finances, and you will be asked to submit financial records including federal tax returns. If the EPA concludes that Yazoo Valley Electric has a legitimate inability to pay the full amount demanded, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to Yazoo Valley Electric. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of Yazoo Valley Electric's first contact with the F. J. Doyle Site. Coverage depends on many factors, such as the language of the particular policy and state law.

Also, please note that, because the EPA has a potential claim against you, you must include the EPA as a creditor if you file for bankruptcy. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

### **Resources and Information for Small Businesses**

In January of 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law at <http://www.gpo.gov/fdsvs/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf> and review the EPA guidance regarding these exemptions at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>

The EPA has also created a number of helpful resources for small businesses. The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at <http://www.epa.gov/compliance/compliance-assistance-centers>. In addition, the EPA Small Business Ombudsman may be contacted at <http://www.epa.gov/resources-small-businesses/forms/contact-us-about-resources-small-businesses>. Finally, the EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act ("SBREFA") and information on resources for small businesses, which is included with Enclosure 4 with this letter and available on the Agency's website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

### **Your Response**

Please send a written response to this cost recovery demand, within thirty (30) days of receipt of this letter, to:

Mr. David Eppler (SEDAE)  
Enforcement Officer  
Superfund and Emergency Management Division, Cost Recovery Section  
U.S. EPA, Region 6  
1201 Elm St, Suite 500  
Dallas, Texas 75270  
Telephone: (214) 665-6529  
Email: [eppler.david@epa.gov](mailto:eppler.david@epa.gov)

If a response from you is not received within thirty (30) days, the EPA will assume that you have declined to reimburse the Superfund for the Site response costs, and the EPA will evaluate its enforcement options pursuant to CERCLA accordingly.

If you have questions regarding the response actions taken at the Site, please contact Mr. David Eppler at 214-665-6529. If you or your attorney have legal questions, please direct them to Mr. Leonard Schilling, Superfund Attorney, at 214-665-7166 or [schilling.leonard@epa.gov](mailto:schilling.leonard@epa.gov).

Thank you for your prompt attention to this matter.

Sincerely yours,

**WREN STENGER**

Digitally signed by WREN STENGER  
DN: c=US, o=U.S. Government, ou=Environmental  
Protection Agency, cn=WREN STENGER,  
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Wren Stenger  
Director  
Superfund and Emergency Management Division

**Enclosures:**

- 1 Evidence of Liability
- 2 EPA Costs
- 3 List of Potentially Responsible Parties
- 4 Small Business Resource Information Sheet